

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

ARTHUR LEE GARRISON,

Case No.: 3:17-cv-00391-MMD-WGC

## Plaintiff

## **Report & Recommendation of United States Magistrate Judge**

NEVADA DEPARTMENT OF  
CORRECTIONS, et. al.,

Re: ECF Nos. 198, 207

## Defendants

This Report and Recommendation is made to the Honorable Miranda M. Du, United States District Judge. The action was referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and the Local Rules of Practice, LR 1B 1-4.

Before the court are two identical motions filed by Plaintiff where he seeks to dismiss the dismissal of Dr. Romeo Aranas. (ECF Nos. 198, 207.) Defendants filed a response. (ECF No. 213.) No reply brief was filed.

After a thorough review, it is recommended that the first motion (ECF No. 198) be denied as being without merit because the Attorney General's Office has accepted representation of Dr. Aranas and an answer has been filed on his behalf. In addition, it is recommended that the second motion (ECF No. 207) be stricken as redundant.

## I. DISCUSSION

Plaintiff is an inmate in the custody of the Nevada Department of Corrections (NDOC), proceeding pro se with this action pursuant to 42 U.S.C. § 1983. (Fourth Am. Compl., ECF No. 129.)

1 Plaintiff was allowed to proceed with claims for retaliation and Eighth Amendment  
2 deliberate indifference to serious medical needs in his Fourth Amended Complaint.  
3 (ECF No. 128.) He was allowed to proceed against Guy Brown, Julie Matousek, Stoke, Neven,  
4 Dr. Michael Koehn, A. Gregerson, Melissa Mitchell, Dr. Schlauger, Dr. Romeo Aranas,  
5 Dr. Scott Monthei, Russell Perry, and Smith. (*Id.*)

6 On March 16, 2020, the Attorney General's Office accepted service for Dr. Aranas, Guy  
7 Brown, Julie Matousek, Melissa Mitchell, Dwight Neven, and Perry Russell. (ECF No. 132.) On  
8 April 8, 2020, an answer was filed on behalf of these defendants. (ECF No. 139.)

9 The Attorney General's Office has accepted representation of Dr. Aranas, and an answer  
10 has been timely filed on his behalf. There has been no motion to dismiss Dr. Aranas. Therefore,  
11 there is no basis for Plaintiff's motions, which indicate that the Attorney General's Office is not  
12 going to represent Dr. Aranas or that they have sought his dismissal. As such, Plaintiff's motion  
13 (ECF No. 198) should be denied. The second motion (ECF No. 207) is identical to the first  
14 motion, and should be stricken as redundant. *See Ready Transp., Inc. v. AAR Mfg., Inc.*, 627 F.3d  
15 402, 404 (9th Cir. 2010) (citations omitted) (courts have inherent power to control their dockets,  
16 including "the power to strike items from the docket as a sanction for litigation conduct.").

17 Plaintiff should be admonished to refrain from filing redundant materials in the future.

18 **II. RECOMMENDATION**

19 IT IS HEREBY RECOMMENDED that the District Judge enter an order **DENYING**  
20 Plaintiff's motion to dismiss the dismissal of Dr. Aranas (ECF No. 198) and **STRIKING** the  
21 identical motion filed at ECF No. 207. Plaintiff should be admonished to refrain from filing  
22 redundant materials in the future.

The parties should be aware of the following:

2       1. That they may file, pursuant to 28 U.S.C. § 636(b)(1)(C), specific written objections to  
3 this Report and Recommendation within fourteen days of being served with a copy of the Report  
4 and Recommendation. These objections should be titled “Objections to Magistrate Judge’s  
5 Report and Recommendation” and should be accompanied by points and authorities for  
6 consideration by the district judge.

7       2. That this Report and Recommendation is not an appealable order and that any notice of  
8 appeal pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure should not be filed  
9 until entry of judgment by the district court.

11 | Dated: November 12, 2020

William G. Cobb  
William G. Cobb  
United States Magistrate Judge